

Message Text

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ACTION SCI-06

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NSAE-00 NSC-10 OST-04 RSC-01 GAC-01 EB-11 PM-09 SS-14

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SUBJECT: ARRANGEMENTS FOR TRANSFER OF GULF RESEARCH
REACTOR TO ROMANIA

REF: A. IAEA VIENNA 2014 B. STATE 39117

SUMMARY: MISOFF DISCUSSED TEXTS DRAFT SUPPLY AND PROJECT AGREEMENTS RE TRANSFER GULF REACTOR AND FUEL TO ROMANIA WITH AGENCY AND ROMANIAN REPS. MAJOR POINTS REMAINING TO BE RESOLVED FOLLOW BELOW. ACTION REQUESTED: U. S. COMMENTS SOONEST AND AUTHORIZATION TO SIGN SUPPLY AGREEMENT. END SUMMARY.

1. MISOFF MET MARCH 15 WITH AGENCY (STEIN) AND ROMANIAN REP (IONESCU) TO DISCUSS PROPOSED SUPPLY AND PROJECT AGREEMENTS RE TRANSFER OF GULF RESEARCH REACTOR AND FUEL TO ROMANIA.

2. UNDERTAKING AND SAFEGUARDS PROVISIONS IN DRAFT PROJECT AGREEMENT ARE THOSE OUTLINED REF A, EXCEPT FOR FOLLOWING INSERTION AFTER " THE THEN EFFECTIVE AGENCY'S SAFEGUARDS SYSTEM APPLICABLE TO AGENCY PROJECTS" IN LAST SENTENCE PARA 2 REF A: " INCLUDING PROVISIONS WITH RESPECT TO AGENCY INSPECTORS:". LATTER FELT NECESSARY BECAUSE PROVISION IN DRAFT RE INSPECTORS READS AS
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FOLLOWS: " THE RELEVANT PROVISIONS OF THE AGREEMENT BETWEEN THE SOCIALIST REPUBLIC OF ROMANIA AND THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR THE APPLICATION OF SAFEGUARDS IN CONNECTION WITH THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS SHALL APPLY TO AGENCY INSPECTORS PERFORMING FUNCTIONS PURSUANT TO THIS AGREEMENT."

3. ANOTHER ALTERNATIVE WOULD BE TO ADD ON DETAILED PROVISIONS RE INSPECTORS TO FOREGOING IN EVENT NPT SAFEGUARDS AGREEMENT TERMINATED, WHICH AGENCY STRONGLY PREFERS AVOID, SINCE AGENCY WISHES TO KEEP AGREEMENT AS SIMPLE AS POSSIBLE. MISSION BELIEVES AGENCY'S PROPOSED INSERTION TAKES CARE OF PROBLEM.

4. REMAINING PROVISIONS OF DRAFT PROJECT AGREEMENT ARE STANDARD, EXCEPT FOR ARTICLE IX, SECTION 13. CONCERNING SETTLEMENT OF DISPUTES, WHICH READS AS FOLLOWS: " ANY DISPUTE CONCERNING THE INTERPRETATION OR APPLICATION OF THIS AGREEMENT, WHICH IS NOT SETTLED BY NEGOTIATION OR AS MAY OTHERWISE BE AGREED, SHALL BE SETTLED IN THE SAME MANNER AS THAT DESCRIBED IN ARTICLE 22 OF THE AGREEMENT BETWEEN THE SOCIALIST REPUBLIC OF ROMANIA AND THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR THE APPLICATION OF SAFEGUARDS IN CONNECTION WITH THE TREATY ON THE NON- PROLIFERATION OF NUCLEAR WEAPONS." MISSION BELIEVES FOREGOING TEXT ACCEPTABLE, SINCE THAT PROVISION PREVAILS IN ANY CASE WHILE NPT SAFEGUARDS AGREEMENT IS IN FORCE.

5. RE SUPPLY AGREEMENT, ONLY PROBLEM IS DISPUTES ARTICLE (SEE ARTICLE V, SECTION 11 OF INDONESIAN SUPPLY AGREEMENT, INFCIRC/136, PART X), WHICH CONTAINS REFERENCE TO PRESIDENT OF INTERNATIONAL COURT OF JUSTICE, WHICH ROMANIA UNABLE ACCEPT, ROMANIAN REP PROPOSES INSTEAD " SECRETARY GENERAL OF THE UNITED NATIONS." WE AGREED REFER MATTER TO WASHINGTON FOR CONSIDERATION, BUT SUGGESTED ROMANIA, IN TURN, CONSIDER " SECRETARY GENERAL OF THE PERMANENT COURT OF ARBITRATION," WHICH IS LANGUAGE USED IN US/ IAEA/ SOUTH AFRICA TRILATERAL. WE NOTED ACCEPTANCE THIS LANGUAGE MIGHT FACILITATE REACHING COMPLETE AGREEMENT ON TEXT AT EARLY DATE, IN UNCLASSIFIED

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VIEW OF PRECEDENT. ROMANIAN REP AGREED DISCUSS WITH

HIS AUTHORITIES. AGENCY CAN ACCEPT EITHER VERSION.

6. ADDITIONALLY, ROMANIA REQUESTS DELETION LAST SENTENCE OF DISPUTED ARTICLE IN SUPPLY AGREEMENT, WHICH REFERS TO REMUNERATION OF ARBITRATORS AS BEING ON SAME BASIS AS AD HOC JUDGES OF ICJ, AGAIN BECAUSE OF REFERENCE TO ICJ. AGENCY WILLING ACCEPT DELETION, NOTING THAT QUESTION OF REMUNERATION IS LEFT OPEN IN MANY INTERNATIONAL AGREEMENTS, INCLUDING NPT SAFEGUARDS AGREEMENTS.

7. REMAINING PROVISIONS OF SUPPLY AGREEMENT ARE STANDARD.

8. COPIES DRAFT AGREEMENTS POUCHED AMMONS, AEC, AND KENT, IO/ SCT. MISSION REQUESTS COMMENTS SOONEST, PARTICULARLY ON POINTS NOTED ABOVE, AND REVIEW FOR ACCURACY OF SUPPLY AGREEMENT ANNEX CONTAINING ENRICHED URANIUM CHARGES. AGENCY HOPES TO HAVE U. S. VIEWS NO LATER THAN MARCH 22, IN ORDER TO PROCEED WITH ARRANGEMENTS FOR PRINTING AND SIGNATURE FOLLOWING WEEK, TAKING INTO ACCOUNT MARCH 31 DEADLINE ESTABLISHED IN CONTRACT BETWEEN GULF AND GOR.

9. RE REF B, AGENCY HAS RECEIVED PRELIMINARY SAFETY AND SITING REPORTS FROM ROMANIANS, WHICH ARE UNDER REVIEW. EXPECTATION IS THAT THEY WILL BE SUFFICIENT TO SATISFY AGENCY. THUS PERMITTING CONCLUSION OF PROJECT AGREEMENT, TAKING INTO ACCOUNT THAT AGREEMENT, BY ITS OWN TERMS, PROVIDES FOR REVIEW OF DETAILED HEALTH AND SAFETY REPORTS BEFORE SNM CAN BE TRANSFERRED.

10. MISSION ALSO REQUESTS AEC AUTHORIZATION TO SIGN SUPPLY AGREEMENT. ADVISE. PORTER

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